

Wednesday, 8 October 1947

- - -

INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST
Chambers of the Tribunal
War Ministry Building
Tokyo, Japan

PROCEEDING IN CHAMBERS

On

Motions of HIROTA, Koki, and SHIGEMITSU,
Mamoru, for an order to propound certain
interrogatories to the Honorable Sir Robert
Craigie, former Ambassador of Great Britain
to Japan, by cable.

Before:

HON. SIR WILLIAM WEBB,
President of the Tribunal,
and Member from the Common-
wealth of Australia.

Reported by:

Antoinette Luda
Court Reporter
IMTFE

Appearances:

For the Defense Section:

Mr. George A. Furness, Counsel for the
Accused SHIGEMITSU.

Mr. George Yamaoka, Counsel for the
Accused HIROTA.

For the Prosecution Section:

Mr. A. S. Comyns Carr.

For the Secretariat:

Judge E. H. Dell, Legal Adviser.

Mr. Paul M. Lynch, Clerk of the Court.

The proceeding was reconvened at 0900.

- - -

THE PRESIDENT: This is the resumption of the application adjourned from 1:15 p.m. yesterday.

Mr. Furness hands in interrogatories to be submitted to Sir Robert Craigie. What is your attitude about these, Mr. Comyns Carr?

MR. COMYNS CARR: Your Honor, I am afraid I cannot agree to them as they stand, and under those circumstances it seems to me that there is no course open but the one you suggested yesterday; namely, that they should be submitted and the objections be argued when they come back.

THE PRESIDENT: I think so.

MR. COMYNS CARR: When they are tendered to the Tribunal.

THE PRESIDENT: Yes, that is the view I take, too.

MR. FURNESS: I understand the questions which are objected to are 3, 4, 11, 12, 15--

MR. COMYNS CARR: No, 13.

MR. FURNESS: Thirteen, yes; 12, 13, 15, 17 and 18, and before sending them, I plan to revise them in some of their words in order, if I can, to meet the objections which Mr. Carr stated to me.

THE PRESIDENT: In a national court, the judge does not always settle these things in chambers, but there are certain circumstances when he gives leave to administer further interrogatories when he may take a closer interest.

MR. COMYNS CARR: Your Honor, I fully appreciate the difficulties. If my friends would like to make further revisions and submit them to me privately, we might be able to agree; at all events, it might reduce any objections I should have to take when they come back. But as far as any order we can ask your Honor to make this morning, I submit we cannot go further than what we suggested yesterday: that you give leave to deliver interrogatories either in this form or in such revised form as my friend may please, all objections being reserved.

THE PRESIDENT: I think that is the order. I will make the order on those terms.

MR. FURNESS: I do want to say, sir, I think the Foreign Office expected that the questions would be passed on by the Court before they were sent.

THE PRESIDENT: They may decide to do that. I will consult them.

MR. FURNESS: The Foreign Office.

THE PRESIDENT: The English Foreign Office

desires that?

MR. FURNESS: And I suppose they will pass on the answers.

THE PRESIDENT: I will make the order giving you leave to administer the interrogatories. Then, you and Mr. Comyns Carr can meet to see what you can agree upon. Failing that, I will approach the Court to see what they will decide they should be before hearing argument. It is going to be difficult, unless they hear argument, to come to a decision.

MR. FURNESS: Of course, they do not know what the answers may be. The answers may show they are admissible or may show the reverse.

THE PRESIDENT: I am afraid the Court will not, at this stage, decide what the questions should be, but it is for them to say. They would, I think, have to hear argument before deciding, because they would practically be bound by their decision later to admit them.

MR. COMYNS CARR: As to the questions; of course, the answers might be objectionable for other reasons.

THE PRESIDENT: Yes, that would be a peculiar position to be in.

MR. COMYNS CARR: If they would come to a

decision about it, of course, there are advantages.

THE PRESIDENT: They did, at Nuernberg, decide in advance what they were going to admit, but we have not done it. We have seen no need for doing it, yet.

MR. COMYNS CARR: Will your Honor consult your colleagues?

THE PRESIDENT: I will refer the matter to them today. In the meantime, I will make the order. That order will certainly be agreed by the Court, that you have leave to administer the interrogatories.

MR. FURNESS: The order in my case to administer interrogatories has already been issued.

THE PRESIDENT: Yes, you do not need it. What you need is the approval of these particular questions.

What is your position there, Mr. Yamaoka?

MR. YAMAOKA: I am quite agreeable to that suggestion of your Honor. The phraseology of the interrogatories could be further worked out with Mr. Carr to eliminate as much as possible any objections that he might have, and I think that would be quite agreeable to us.

But there is a further point involved I might suggest to your Honor, and that is this, that the order prayed for requests that the interrogatories be

submitted by cable and answers be obtained by cable, and there seems to be some difficulty in arranging the details and mechanics of how that will be worked out.

The suggestion was made that probably the usual course would be the best; that is to say, that the matter would be submitted to the Diplomatic Section of SCAP, and then the Diplomatic Section would transmit it, perhaps, to the British Mission and the British Mission would then transmit it to London in due course.

I do not know whether your Honor has had occasion to look into that aspect of the problem.

THE PRESIDENT: We will have to follow whatever course the British direct. That is certain. We will have to follow their procedure.

MR. COMYNS CARR: I suggested to my friend that I am quite willing to facilitate it, if it can be done, by cutting out any time which might be spent in the intermediate reference to SCAP, going through SCAP, and if the Tribunal so directs, I would assist my friend to take it direct to the United Kingdom Mission.

THE PRESIDENT: With the concurrence of the Ambassador here, yes.

MR. COMYNS CARR: Yes. That merely would cut

out a certain possible waste of time in its being transmitted through SCAP.

THE PRESIDENT: That is right.

MR. COMYNS CARR: But, on the other hand, transmitting through SCAP, I would say, is the official procedure.

THE PRESIDENT: It should not take long.

MR. COMYNS CARR: And your Honor may prefer that it be done that way. But if I can facilitate it by cutting that stage of procedure, I will do so.

THE PRESIDENT: I would almost be certain the British Ambassador would insist on its going through SCAP.

MR. FURNESS: I think so.

THE PRESIDENT: I will confer with him about it, because the Supreme Commander sets these procedures up and it is our duty to comply with his wishes in this matter.

MR. COMYNS CARR: I am only offering what assistance I can to shorten the procedure.

THE PRESIDENT: Yes, to shorten the procedure. I understand. We will do everything in our power to shorten it.

MR. FURNESS: I can say that the Foreign Office said they were perfectly willing to have it

handled by cable and to reply by cable.

THE PRESIDENT: That is the position now. There is no need for any further meeting before me unless you can agree to something and you come up and I will pass it on.

MR. COMYNS CARR: And if the Tribunal as a whole desires to hear it.

THE PRESIDENT: I will let you know in due course.

(Whereupon, at 0910, the proceeding was concluded.)

- - -